

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019-6064
TELEPHONE (212) 373-3000

LLOYD K. GARRISON (1946-1991)
RANDOLPH E. PAUL (1946-1956)
SIMON H. RIFKIND (1950-1995)
LOUIS S. WEISS (1927-1950)
JOHN F. WHARTON (1927-1977)

UNIT 5201, FORTUNE FINANCIAL CENTER
5 DONGSANHUAN ZHONGLU
CHAOYANG DISTRICT, BEIJING 100020, CHINA
TELEPHONE (86-10) 5828-6300

HONG KONG CLUB BUILDING, 12TH FLOOR
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU, UNITED KINGDOM
TELEPHONE (44 20) 7367 1600

FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101

TORONTO-DOMINION CENTRE
77 KING STREET WEST, SUITE 3100
P.O. BOX 226
TORONTO, ONTARIO M5K 1J3
TELEPHONE (416) 504-0520

2001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300

500 DELAWARE AVENUE, SUITE 200
POST OFFICE BOX 32
WILMINGTON, DE 19899-0032
TELEPHONE (302) 655-4410

MATTHEW W. ABBOTT
EDWARD T. ACKERMAN
JACOB A. ADLERSTEIN
JUSTIN ANDERSON
ALLAN J. ARFFA
JONATHAN H. ASHTOR
ROBERT A. ATKINS
DAVID J. BAILL
SCOTT A. BARSHEY
PAUL M. BASTA
J. STEVEN BACHMAN
LYNN B. BAYARD
CRAIG A. BENSON
MICHAEL J. BERNBERG
MARK S. BERGMAN
DAVID M. BERNICK
JOSEPH J. BIAL
BRUCE BIRENBOIM
H. CHRISTOPHER BOEHNING
ANGELO BONVINO
ROBERT C. BORRELLI
DAVID W. BROWN
SUSANNA M. BURGEL
JESSICA S. CAREY
DAVID CARMONA
GEOFFREY R. CEPIGA
ELLEN N. CHING
WILLIAM A. CLAREMAN
LEWIS R. CLAYTON
YAHONNES CLEARY
RACHAEL G. COFFEY
JAY COHEN
KELLEY A. CORNISH
CHRISTOPHER J. CUMMINGS
THOMAS V. DE LA BASTIDE III
ANDREW J. DECKELBAUM
KAREN L. DUNN
ALICE BELISLE EATON
ANDREW J. EHRLICH
GREGORY A. EZRING
ROSS A. FIELDSTON
ANDREW C. FINCH
ROBERT A. FINNELSTEIN
BRIAN P. FINNEGAN
ROBERTO FINZI
PETER E. FISCH
HARRIS FISCHMAN
ANDREW J. FOLEY
ANDREW J. FORMAN*
HARRIS FREDUS
CHRISTOPHER D. FREY
MANUEL S. FREY
ANDREW L. GAINES
KENNETH A. GALLO
MICHAEL E. GERTZMAN
ADAM M. GIVERTZ
SARAH TORRES GOGLIOMELLA
NEIL GOODMAN
MATTHEW B. GOLDSTEIN
ROBERTO J. GONZALEZ*
CATHERINE L. GOODALL
ERIC GOODISON
CHARLES H. GOODE, JR.
ANDREW G. GORDON
BRIAN M. GRIEVE
UDI GROFMAN
NICHOLAS GROOMBRIDGE
BRUCE A. GUTENPLAN
ALAN S. HALPERIN
CLAUDIA HAMMERMAN
BRIAN S. HERRMANN
MICHAEL HESCHMAN
ROBERT E. HOLO
DAVID S. HUNTINGTON
AMRAN HUSSEIN
LORETTA A. IPPOLITO
WILLIAM A. ISAACSON*
JAREN JANGHORBANI
BRIAN J. JARRELL
JEH C. JOHNSON
MEREDITH J. KANE
JONATHAN S. KANTER
BRAD S. KARP
PATRICK N. KARNSNITZ

JOHN C. KENNEDY
BRIAN KIM
KYLE J. KIMPLER
ALEXIA D. KORBERG
ALAN W. KRAMER
DANIEL J. KUEHN
DAVID K. LAKHDHIR
JOHN E. LANGE
GREGORY F. LAUFER
BRIAN C. LAVIN
XIAOYU GREG LIU
LORETTA E. LYNCH
JENNIFER E. MARELL
MARCO V. MASOTTI
DAVID W. MAYO
ELIZABETH R. MCCOLM
JEAN M. MCLOUGHLIN
ALVARO MEMBRILLERA
MARIA MENDOZA-SOHN
CLAUDINE MEREDITH-GOUJON
WILLIAM B. MICHAEL
JUDIE NG SHORTELL*
CATHERINE NYARADY
JANE B. O'BRIEN
ALEX YOUNG K. OH
BRAD R. OKUN
KELEB D. PARKER
LINDSAY B. PARKS
ANDREW M. PARLEN
VALERIE E. RADWANER
JEFFREY J. RECHER
CARL L. REISNER
LORIN J. REISNER
JEANNE E. RIEZ
WALTER G. RICCIARDI
WALTER RIEMAN
RICHARD A. ROSEN
ANDREW N. ROSENBERG
JUSTIN ROSENBERG
JACQUELINE P. RUBIN
CHARLES F. "RICK" RULE*
RAQUEL M. RUSO
ELIZABETH M. SACKSTEDE
JEFFREY D. SAFERSTEIN
JEFFREY B. SAMUELS
KENNETH M. SCHNEIDER
ROBERT B. SCHUMER
JOHN M. SCOTT
BRIAN SCHAFFNER
KYLE SEIFRIED
KANNON K. SHANMUGAM*
DAVID R. SICULAR
AUDRA J. SOLOWAY
SCOTT M. SONTAC
SARAH STASNY
TANIA M. SWART
ERIC ALAN STONE
AIDAN SYNNOTT
BRETTE TANNENBAUM
RICHARD C. TARLOWE
MONICA K. THURMOND
DANIEL J. TIGLIO
LAUREN G. TUNINO
CONRAD VAN LOGGERENBERG
LIZA M. VELAZQUEZ
MICHAEL VOGEL
RAMY J. WAHBEH
LAWRENCE G. WEE
THEODORE V. WELLS, JR.
LINDSEY J. WIERSMA
STEPHEN J. WILLIAMS
LAWRENCE I. WITDORCHIC
AUSTIN WITT
MARK B. WLAZLO
JULIA TARVER MASON WOOD
JENNIFER H. WU
BETTY YAN*
JOELAN E. YARETT
KAYE N. YOSHINO
TONG YU
TRACEY A. ZACCONE
TAURIE M. ZEITZER
T. ROBERT ZOCHOWSKI, JR.

*NOT ADMITTED TO THE NEW YORK BAR

WRITER'S DIRECT DIAL NUMBER
(212) 373-3118

WRITER'S DIRECT FACSIMILE
(212) 492-0118

WRITER'S DIRECT E-MAIL ADDRESS
lelynch@paulweiss.com

June 25, 2020

VIA ECF

Honorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

I. Background

Since my June 18, 2020 report to the Court, I have had a joint call with counsel for Federal Defenders, Inc., along with their representatives and with counsel for the Government and representatives of the Metropolitan Detention Center ("MDC") and

Metropolitan Correctional Center (“MCC”). I have also spoken separately with counsel for MDC and MCC.¹

This week, my conversations with the Federal Defenders and the Government have focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The handling of legal mail at both institutions.
3. Plaintiffs’ desire to increase both the length and number of available videoconferences currently available at both institutions.
4. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.

I have also received and reviewed the reports submitted by the parties on June 24, 2020. *See* ECF Nos. 73 & 74. My discussions with the parties this week were substantive and productive. We discussed issues concerning in person visits and issues concerning legal mail. Both parties are prepared to discuss these issues at the June 26, 2020 telephone status conference.

II. Telephonic Contact

This was the tenth week in which the parties scheduled and facilitated legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF No. 70.

A. MCC

According to the information I have from MCC, MCC received ninety-one requests for phone calls since June 19, 2020. Eighty calls were completed, eight calls were attempted but not completed, and one was cancelled at the attorney’s request. There were two calls for which we do not have completion information and I have followed up with the institution for more information.

B. MDC

MDC received 114 call requests from June 19 to June 23, with call logs from June 24 not available at the time of this report. 101 of these were completed and

¹ We held a joint call on June 25, 2020. I also spoke with MDC and MCC on June 25, 2020.

five were attempted but not completed. There were eight calls for which we do not have completion information and I have followed up with the institution for more information.

III. Videoconferencing

A. MCC

According to MCC's records, there were twenty-four videoconferences scheduled to take place this week. Twenty-four were completed as scheduled

B. MDC

According to MDC's records, there were twenty videoconferences scheduled to take place this week using MDC's VTC units. Twenty were completed as scheduled. There were three videoconferences scheduled to take place this week using the videoconference system at the Brooklyn courthouse. Those three were also completed as scheduled. The parties will work together to utilize available VTC time scheduled for the courthouse unit with the MDC based units, where possible. Federal Defenders has raised a privacy concern with one videoconference, wherein defense counsel could hear an adjacent videoconference, raising concerns about their privacy as well. That information has been provided to the government for further review.

IV. In-Person Legal Visits

The parties continue to discuss the issues surrounding the resumption of in-person visiting. Last week Federal Defenders provided a detailed summary of procedures that would assist the defense bar with the resumption of in-person visiting. The government previously indicated that several of the procedures were already under consideration by the institutions and, without providing guarantees of inclusion, all would be considered. This week the government advised that both institutions continue to work towards re-opening plans, which plans still require approval at the regional or national level. The parties have been able to discuss certain likely procedures within the context of mediation, although the government is awaiting final approval before plans can be announced publicly. Once the institutions are advised they may re-open, the government anticipates a transition period during which they will have further discussions with Federal Defenders about plan specifics. This will provide additional opportunity for Federal Defenders to provide feedback and input.

V. Legal Mail

The MDC has advised that they have spoken with staff involved in handling legal mail and reiterated the appropriate guidance. Federal Defenders has advised that they continue to hear of instances where legal mail is not handled appropriately. Where possible, Federal Defenders will provide specific information regarding these instances so that the government can look into them. I will continue to monitor this issue.

Respectfully,

/s/ Loretta E. Lynch
Loretta E. Lynch

cc: Sean Hecker, Kaplan, Hecker & Fink
Seth D. Eichenholtz, U.S. Attorney's Office (E.D.N.Y.)
Sean Greene, U.S. Attorney's Office (E.D.N.Y.)
Matthew J. Modafferri, U.S. Attorney's Office (E.D.N.Y.)
Jeffrey Oestericher, U.S. Attorney's Office (S.D.N.Y.)
David Jones, U.S. Attorney's Office (S.D.N.Y.)